

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons that follow.

Status of the Claims:

No claims are currently being amended, added or canceled.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 1-9 and 12-21 remain pending in this application, whereby claims 12, 14 and 17 are withdrawn from consideration.

Statements Concerning Official Notice Taken in the Office Action:

On page 16 of the Office Action, it states that “since applicant has not attempted to traverse such Official Notice statement [concerning ASPs], examiner is taking the asserted common knowledge and/or well-known statement to be admitted prior art.”

In reply, page 13 of the previously-filed response clearly disagreed with the Examiner’s use of Office Notice of this instance, and stated that “the **specific use** of an ASP in a network of different enterprises, whereby confidential information has to be maintained between each of the different enterprises, and whereby a third party accounting firm is also allowed access to specific enterprises in order to evaluate the information of those specific enterprises based on information stored at the ASP, **is not well known in the art**, nor would it have been obvious to use an ASP in such a system to one skilled in the art at the time the invention was made.” (emphasis added)

Accordingly, Applicant made a strong and clear traversal of the use of Official Notice in the previous Office Action and the current Office Action, whereby the PTO is requested to provide a reference that explicitly show “the specific use of an ASP in a network of different enterprises, whereby confidential information has to be maintained between each of the different enterprises, and whereby a third party accounting firm is also allowed access to specific enterprises in order to evaluate the information of those specific enterprises based on information stored at the ASP”, or otherwise withdraw the rejection of the claims on this basis.

It appears that the Examiner has misunderstood the statements made in the Remarks section of the previously-filed reply. As an analogy, consider a case whereby an Office Action takes official notice of a car having four tires. The Office Action then goes on to take official notice of that same car having a fifth tire that extends out from the middle of the car under certain circumstances. In that instance, like the one described above for this application, Applicant has no problem with “the use of ASPs in networks” by itself (e.g., a car having four tires), but rather it is the specific use of ASPs (e.g., the car having a fifth tire that extends out under certain circumstances) in the manner that the Examiner has asserted is well known in the art that Applicant has a major problem with.

Accordingly, the Official Notice made in the Office Action with respect to ASPs is respectfully traversed.

Claim Rejections – Prior Art:

In the Office Action, claims 1-9, 13, 15-16 and 18-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Disclosed Prior Art (applicant’s specification, pages 1-4) in view of Florzak (Successful Independent Consulting. Logical Direction). This rejection is traversed for the reasons given below.

First, please refer to the comments provided above with respect to the Office Action’s erroneous assertion of Official Notice with respect to the specific use of ASPs described in the Office Action.

As mentioned in the Background Section of the application, each enterprise may provide its proprietary information to an evaluator via a computer network, whereby there is no need to use an ASP for such a system. The fact that networks may have an ASP, by itself, is not enough for one skilled in the art to provide such a system to the Disclosed Prior Art system, since issues regarding security and the like become very prominent when proprietary information from different enterprises is stored at one location, and whereby security leaks and the like may occur, which would be disastrous to such a system.

Thus, to assert that ASPs would be used in a system as recited in the presently pending claims, given the security issues that would be involved in having such a system, amounts to improper hindsight reconstruction of the claimed invention. In other words, to assert that having an ASP for management and use of applications and/or processing of information “to obtain the benefits inherent in the utilization of application service providers

such as cost savings”, without factoring in the major downside in that security issues resulting from sending important information of a company to a site in which competitors also have access to that site, clearly does not weigh the negatives of having an ASP in such a network.

Accordingly, it is strongly submitted that one of ordinary skill in the art, based on the standard knowledge of an ASP at the time the invention was made, would not utilize an ASP in such a network in which secure information is provided from multiple companies, since the dangers associated with someone obtaining that secure information either via the network communication lines and/or the ASP itself would strongly weigh against the use of an ASP in such a network.

Furthermore, with respect to Florzak, that reference is directed to simple two-party contracts, and does not appear to contemplate more complex contracts involving many different types of entities, such as the systems and methods recited in independent claims 1, 6, 13, 15 and 16. In more detail, a contract between an ASP, a plurality of different enterprises, and an accounting firm that is to evaluate one of more of those different enterprises using information stored at the ASP, goes well beyond the simple two-party (e.g., one buyer and one seller) contracts described in Florzak.

In response to the above arguments that were also made in the previously-filed response, page 17 of the Office Action asserts that “Florzak was utilized to demonstrate that the general concept of forming a contractual relationship between business parties, such as a target enterprise (client) and a corporate rating business entity (independent contractor)”, and that “such description does not teach away from the formation of more complex contractual relationship, such as between multiple parties.”

While it may well be the case that Florzak does not teach away from the use of three-or-more party contracts, it certainly does not teach or suggest such complex contracts, especially ones between an ASP, a plurality of different enterprises, and an accounting firm that is to evaluate one of more of those different enterprises. That is, Florzak does not teach or suggest such a more-than-two party contract, and the fact that it does not teach away from it does not relieve the PTO from its requirement to make out a prima facie case of obviousness with respect to the claimed invention.

Accordingly, the presently pending independent claims are patentable over the cited art of record.

Additionally, dependent claims 3 and 7 recite specifics of multi-party contracts between three or more entities, which are not taught or suggested by the cited art of record.

Furthermore, with respect to dependent claims 19-21, Applicant strongly disagrees with the Examiner's interpretation of page 1, lines 21-23 of the specification, whereby "a specific time" does not signify "predetermined time intervals". Furthermore, page 1, lines 21-23 of the specification certainly does not contemplate obtaining disclosure documents at predetermined time intervals (e.g., at noon on Monday each week). Referring to the full sentence on page 1, line 15 to page 2, line 2, the clear meaning of "specific time" is the time when a stock report has been completed, or when a financial report has been completed, or an accounting report has been completed, whereby the specific time corresponds to the time when those reports are completed and thus ready to be sent to the corporate rating business, whereby those times can occur at any particular time (that is, the time when they are completed, be it 3:13 p.m. on Friday, or 8:18 a.m. on Tuesday).

Furthermore, page 2, lines 19-22 of the specification sets forth a conventional situation whereby a "specific time" corresponds to a time when the corporate rating business entity makes a visit to the company to be rated, whereby this clearly does not contemplate that the visits are performed at predetermined time intervals. Rather, it contemplates a manual-type of system using people who collect information when they go to a company site, and it does not contemplate an automated system.

Accordingly, since "maintaining updated and/or current financial information, and updating and/or archiving such information at predetermined time frames" is not old and well known in the art of financial management (at least Applicant's admitted prior art does not contemplate such features), the assertions made in the Office Action concerning claims 19-21 are incorrect, and thus those claims are patentable over the cited art of record.

Conclusion:

Since all of the issues raised in the Office Action have been addressed in this Amendment and Reply, Applicant believes that the present application is now in condition for allowance, and an early indication of allowance is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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